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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,514	05/11/2005	Pedro Daniel Soares	4-22787/A/PCT	5051

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CIBA SPECIALTY CHEMICALS CORPORATION
PATENT DEPARTMENT
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EXAMINER

NGUYEN, TRI V

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/534,514	SOARES ET AL.	
	Examiner	Art Unit	
	Tri V. Nguyen	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-6 and 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the colour", "the fabric" and "the dyed fabric" in lines 2 and

3. There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is unclear whether "a warp yarn" in line 1 is the claimed "textile fibre material" in line 1 of claim 1.

Claim 5 recites the limitation "the colour", "the fabric" and "the dyed fabric" in lines 2 and

3. There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is unclear whether "a cotton warp yarn" in line 1-2 is the claimed "textile fibre material" in line 1 of claim 1.

Claim 6 recites the limitation "the colour", "the fabric" and "the dyed fabric" in line 3.

There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is unclear whether "a cotton warp yarn" in line 1 is the claimed "textile fibre material" in line 1 of claim 1.

Claim 9 recites the limitation "the dyed and treated fabric" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 10 and 11 are dependent claims of claim 9 and inherit the same deficiency.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 7-8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Lund et al. (US 5,958,082).

Lund et al. discloses a method comprising the steps of dyeing a fabric such as cotton and denim (col 3, lines 6-13) with naphthol dyes (col 3, lines 13-16) and subjecting the fabric to a stone-wash treatment with enzymes (col 3, lines 39-43) or stones (col 3, lines 52-57 and col 7, lines 5-13).

Accordingly, the teachings of anticipate the material limitations of the present claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 7, 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Besnara (US 5,667,530) in view of Finlayson, III et al. (US 4,351,638).

Benasra discloses a method of overdyeing a fabric in which a dyed terry cloth is subjected to a stone-wash treatment with pumice granule (col 2, line 66 to col 3, line 23) followed by an additional dyeing step in which the color of the second dye is different than the original dye color (col 5, lines 37-47). However, Benasra does not explicitly disclose the original dye. Besrana recites that "any known dye suitable for use with terry cloth can be used" (col. 2 line 67 to col 3, line 3). In the analogous art of fabric dyeing, Finlayson, III et al. discloses that naphthol dyes are used to dye terry cloth (col 1, lines 9-23). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute

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naphthol dyes in the method as taught by Besrana. One would have been motivated to modify the method to arrive at a dyed terry cloth.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund et al. as applied to claim 1 above, and further in view of Womble (US 3,043,645).

Lund et al. discloses a method of claim 1 but does not explicitly disclose the steps of interweaving the cotton yarn with a natural white yarn. In the analogous art fabric treatment, Womble discloses a method wherein the cotton yarn is dyed, interwoven with a white yarn and treated with a diazo compound (at least col. 3, line 19 to col. 4, line 4). Womble discloses the use sulfur dyes; however, Lund et al. shows equivalency of dyes by disclosing that sulfur or naphthol can be used in the dyeing step (col. 3, lines 13-16). Changing the order of steps does not render a claimed process nonobvious over the prior art, see *Ex parte Rubin*, 128 USPQ 440, 441, 442 (POBA 1959). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Lund et al. with the intermediary steps of interweaving the cotton yarn with a white yarn and treating with a diazo salt as taught by Womble. One would have been motivated to modify the method to obtain a fabric with diverse patterns and coloring schemes.

8. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund et al. as applied to claim 1 above, and further in view of Dixon (US 5,460,966) or Barfoed et al. (US 5,925,148).

Lund et al. discloses a method of claim 1 but does not explicitly disclose the subsequent step of dyeing the fabric. In the analogous art fabric treatment, Dixon discloses a sequential process of fabric dyeing in which a stone-wash step is followed by a dyeing step in which a

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second color is imparted to the fabric (col 1, line 66 to col 2, line 25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Besrana with the additional step of dyeing the fabric with a second dye as taught by Dixon. One would have been motivated to modify the method to obtain a fabric with various coloring schemes.

Lund et al. discloses a method of claim 1 but does not explicitly disclose the subsequent step of dyeing the fabric. In the analogous art fabric treatment, Barfoed et al. discloses a method of fabric dyeing in which a stone-wash step is followed by a dyeing step with a secondary dye (col 10, lines 5-19 with examples of dyes [col 3-5] and enzymatic treatment [col. 5-7]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Besrana with the additional step of dyeing the fabric with a second dye as taught by Dixon. One would have been motivated to modify the method to obtain a fabric with various coloring schemes.

Allowable Subject Matter

9. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record teaches, discloses or suggests a method of achieving a permanent stone-wash effect on a cotton warp yarn in the manner as those specifically recited.

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Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri V. Nguyen whose telephone number is (571) 272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

nvt

NVT



LORNA M. DOUYON
PRIMARY EXAMINER